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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MGP APEX 582 MULTIFAMILY, LLC, a
Nevada limited liability company; MGP APEX
582 DEVELOPMENT, LLC, a Nevada limited
liability company; MGP APEX 582
GUARANTY, LLC, a Nevada limited liability
company;

Plaintiffs,

vs.

TREZ CAPITAL WINSTON LP, a Delaware
Limited Partnership; TREZ CAPITAL
FUNDING II, LLC, a Delaware limited
liability company,

Defendants and Real
Parties in Interest,

and

BH&G HOLDINGS, LLC, a Nevada limited
liability company

Nominal Defendant.

CASE NO.: 2:23-cv-00009-RFB-DJA

**STIPULATION AND ORDER TO
REMAND**

1 Plaintiffs MGP Apex 582 Multifamily, LLC, MGP Apex 582 Development, LLC, and
2 MGP Apex 582 Guaranty, LLC (collectively, the “Plaintiffs”) and Defendants Trez Capital
3 Winston LP and Trez Capital Funding II, LLC (collectively, the “Defendants”) hereby stipulate
4 and agree, and jointly request that the Court remand this Removed Action back to the Eighth
5 Judicial District Court for Clark County, Nevada due to lack of diversity jurisdiction, based on the
6 following:

7
8 WHEREAS, on December 27, 2022, Plaintiffs commenced an action in Nevada’s Eighth
9 Judicial District Court, Case No. A-22-863107-C, entitled *MGP Apex 582 Multifamily, LLC v.*
10 *Trez Capital Winston LP* (the “State Court Action”).

11 WHEREAS, on January 3, 2023, Defendants filed a Notice of Removal with this Court
12 [ECF No. 1] based on contended diversity jurisdiction (the “Removed Action”). The Removed
13 Action was assigned to Judge Richard F. Boulware and Magistrate Judge Daniel J. Albregts as
14 Case No. 2:23-cv-00009-RFB-DJA.

15
16 WHEREAS, no other defendants named in the State Court Action filed an appearance in
17 either the State Court Action or the Removed Action and none have joined in the Notice of
18 Removal.

19 WHEREAS, Defendants and Plaintiff MGP Apex Multifamily, LLC each have members
20 and/or partners domiciled in Delaware, thereby precluding diversity jurisdiction. *See Johnson v.*
21 *Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006) (“[L]ike a partnership, an
22 LLC is a citizen of every state of which its owners/members are citizens.”). The Delaware
23 membership within Plaintiff MGP Apex Multifamily, LLC was unbeknownst to defense counsel at
24 the time of filing the Notice of Removal.

25
26 WHEREFORE, Plaintiffs and Defendants stipulate and agree that the Removed Action
27 does not meet the complete diversity requirement for diversity jurisdiction, and on this basis,
28

1 jointly request that the Court order the Removed Action to be immediately remanded back to the
2 Eighth Judicial District Court in and for Clark County, Nevada. *See id. See also*, 28 U.S.C. §
3 1332. Due to a scheduled January 10, 2023 foreclosure sale, and a TRO hearing that was pending
4 at the time of removal, the Parties request expedited review of this stipulation.
5

6 **IT IS SO STIPULATED.**

7
8 Dated: January 5, 2023

Dated: January 5, 2023

9 **HOLLAND & HART**

SNELL & WILMER LLP

10
11 By: /s/ Joseph G. Went (with permission)

By: /s/ Richard C. Gordon

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14 Sydney R. Gambee, Esq.
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18 *Attorneys for Defendants*

Attorneys for Plaintiffs

19 **ORDER**

20 **IT IS SO ORDERED.**

21
22 
23 _____
24 RICHARD F. BOULWARE, II
25 UNITED STATES DISTRICT JUDGE

26 DATED this 12th day of April, 2023.
27
28

Shypkoski, Michelle

From: Joseph Went <JGWent@hollandhart.com>
Sent: Wednesday, January 4, 2023 5:34 PM
To: Gordon, Richard
Cc: Austin, Bradley; Foley, Erik; Shypkoski, Michelle; Sydney R. Gambee
Subject: MGP Apex 582 Multifamily, LLC, et al., v. Trez Capital Winston LP, et al. (Remand for Lack of Diversity)
Attachments: Stipulation and Order to Remand 4885-7237-9975_2.docx

[EXTERNAL] jgwent@hollandhart.com

Rick:

We have reviewed the email and documents you provided this afternoon regarding the membership of Plaintiff MGP Apex Multifamily, LLC. Based on those items, the citizenship of MGP Apex Multifamily, LLC and the citizenship of the defendants, we understand that diversity jurisdiction is precluded. You may affix my electronic signature to the stipulation and order to remand.

Joe



Holland
& Hart

Joseph Went

Partner

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